

Remarks

This is responsive to the Office Action mailed December 30, 2005. The remarks are proper, do not introduce new matter, do not require additional searching, are not narrowing in view of a prior art rejection, and obviate all rejections so as to place the application in proper condition for allowance of all pending claims.

Incomplete Examination

Despite Applicant's rebuttals all claims are finally rejected verbatim as in the previous rejection. All claims now stand finally rejected for obviousness without any concrete evidence in the record to substantiate the Examiner's alleged basis for combining and modifying the cited references. Absent the reconsideration and withdrawal of the final rejection requested herein, this case is not in condition for appeal until the factual and legal errors discussed below are resolved in the record.

Rejection Under 35 USC 103

Claims 1, 2, and 4-6 stand rejected as being unpatentable over Tarquinio '253 in view of Robinson '575. This rejection is respectfully traversed.

Claim 1

Applicant and the Examiner both stipulate to the following: (1) Tarquinio '253 fails to disclose a base with an ILD that is greater than 40, and (2) Robinson '575 discloses the cover having a greater ILD than the base.

Applicant has rebutted the rejection as lacking a substantiated prima facie case of obviousness. Particularly, the Examiner has failed to make the requisite prima facie case of obviousness by not providing a bona fide motivation or suggestion to combine and modify

the cited references to arrive at the present embodiments as claimed. The proper question under Section 103 is not whether differences themselves would have been obvious, but rather whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530 (Fed. Cir. 1983). The claimed embodiments as a whole require both that the base have an ILD that is greater than 40 and that the cover have an ILD that is less than the base.

Applicant agrees with the Examiner that Tarquinio '253 is deficient regarding teaching a base with an ILD greater than 40. The Examiner attempts to cure that deficiency by combining the teaching of Tarquinio '253 with that of Robinson '575, which discloses the base having an ILD of 24 to 50. However, a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.* 220 USPQ 303 (Fed. Cir. 1983). Robinson '575 also teaches a cover with an ILD that is greater than the base. That is, Robinson '575 considered in its entirety teaches a base ILD as low as 24 and a cover ILD as high as 45.

There is no express motivation from the references themselves to combine them because they are contradictory. That is, Robinson as a whole '575 teaches the cover having an ILD that is greater than the base, but Tarquinio '253 teaches the cover having an ILD that is less than the base. In the absence of express motivation, the Examiner's statement that modifications of the prior art to meet the claimed invention would have been within the knowledge of a skilled artisan, because all aspects of the claimed invention are individually taught by different references, is not sufficient to substantiate the motivation or suggestion required by a bona fide prima facie case of obviousness. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993); *In re Kotzab*, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000); *Al-Site Corp. v. VSI Int'l Inc.*, 50 USPQ2d 1161 (Fed. Cir. 1999); MPEP 2143.01.

In the final rejection the Examiner curiously attempts to justify his improper hindsight reconstruction by stating: "it is well known in the art that to merely change a range of values for a structural element, such as the ILD ratio for the base layer, is considered an obvious modification...." The Examiner provides no citation for this "well known" legal view because none exists; the Examiner's statement is actually a misplaced characterization of the law and is reversible error. Absent reconsideration and withdrawal of the final rejection, this case is not in condition for appeal until this legal error is resolved.

Obviousness under Section 103 is a legal conclusion based on underlying findings of fact. *In re Kotzab*, 217 F.3d 1365, 1369 (Fed. Cir. 2000). If Applicant is incorrect, meaning this case is in fact ready for appeal, then the Pre-Appeal Brief Panel must find in the underlying facts "substantial evidence" that adequately supports the legal conclusion of obviousness. *In re Gartside*, 203 F.3d 1305, 1316 (Fed. Cir. 2000). This approach is consonant with the Office's obligation to develop an evidentiary basis for its factual findings to allow for judicial review under the substantial evidence standard that is both deferential and meaningful. *see In re Lee*, 277 F.3d 1338, 1344 (Fed. Cir. 2002).

For a *prima facie* case of obviousness to exist, there must be an objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art that would lead an individual to combine the relevant teachings of the references. *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). The motivation may come explicitly from statements in the prior art, from knowledge of one of ordinary skill in the art, or even in the nature of the problem to be solved. *Kotzab*, at 1370. The presence or absence of motivation is a question of fact, and the evidence that motivation exists must be clear and particular. *In re Dembiczak*, 175 F.3d 994, 1000 (Fed. Cir. 1999).

Generalized statements of advantages or possibilities by an Examiner, without a bona-fide regard to the desirability or feasibility of modifying the cited references, does not meet the evidentiary requirements for substantiating a *prima facie* case of obviousness. Given the subtle but powerful attraction of a hindsight-based obviousness analysis, a rigorous application of the requirement of an evidentiary basis for the motivation must be followed. *In re Dembiczak*, at 999. In so doing the Examiner has at his disposal ample guidance:

The rationale supporting an obviousness rejection may be based on common knowledge in the art or "well-known" prior art. The examiner may take official notice of facts outside of the record which are capable of instant and unquestionable demonstration as being "well-known" in the art.

In re Ahlert, 424 F.2d 1088, 1091 (CCPA 1970)

When a rejection is based on facts within the personal knowledge of the examiner, the data should be stated as specifically as possible, and the facts must be supported, when called for by the applicant, by an affidavit from the examiner. Such an affidavit is subject to contradiction or explanation by the affidavits of the application and other persons.

37 CFR 1.104(d)(2)

Assertions of technical facts in areas of esoteric technology must always be supported by citation of some reference work...allegations concerning specific knowledge of the prior art, which might be peculiar to a particular art should also be supported....

In re Ahlert, at 1091

In the present case the Examiner has played loose and free with facts and done a lot of hand-waving in an attempt to substantiate the legal conclusion of obviousness. First, the skilled artisan will readily recognize that neither Tarquinio '253 nor Robinson '575 teach or suggest a base comprising a foam material with an impression load deflection (ILD) ratio

greater than about 40; and a cover on the base comprising a foam material with an ILD ratio less than the base.

The Examiner has admitted Tarquinio '253 is deficient in regard to a base ILD greater than 40, but relies merely on the carved-out fact that Robinson '575 discloses in some embodiments a base ILD greater than 40. The Examiner ignores the fact, however, that Robinson '575 as a whole also discloses the cover ILD being greater than the base ILD, which teaches away from the Examiner's combination of the references used to justify this rejection. Essentially, the Examiner chastises the Applicant for "attacking references individually," but then combines only portions of the references' disclosure in order to build the an alleged prima facie case in clear violation of the legal requirement to consider the references as a whole.

Applicant now reiterates that the only way the Examiner is able to supply both the *base comprising a foam material with an impression load deflection (ILD) ratio greater than about 40 and the cover on the base comprising a foam material with an ILD ratio less than the base* limitations is via improper hindsight reconstruction. The Examiner has not pointed to any passage of either cited reference that supplies this limitation, or that motivates the skilled artisan to modify the cited references accordingly. The Examiner's generalized statements about operating the cited references according to this limitation would certainly be rebutted by the skilled artisan because the suggested modifications defeat their purposes. The only place the Examiner can find this limitation is by using the Applicant's disclosure against it to extrapolate the misplaced generalizations from the related art. In this case where the entirety of the legal conclusion of obviousness rests on the Examiner's generalizations, the Pre-Appeal Panel must require some concrete evidence in the record to support them

rather than relying on what the Examiner views to be “well recognized” or what a skilled artisan would be “well aware of.” *In re Zurko*, 258 F.3d 1379, 1385-86 (Fed. Cir. 2001)

Accordingly, this case is not in condition for appeal due to the unresolved factual issue that the Examiner has relied exclusively on extrapolating beyond what the cited references reasonably teach or suggest with generalized statements of what “could be,” without regard to what the cited references disclose as a whole. This case is also not in condition for appeal due to the Examiner’s extrapolation beyond the realm of the law in believing that modifying a range with respect to a structure is “merely obvious” on its face. These extrapolations are not substantiated by evidence in the record whatsoever as to them being obvious to the skilled artisan. Applicant now prays for reconsideration and withdrawal of the rejection of claim 1 and the claims depending therefrom. Otherwise, this case is not in condition for appeal until these factual and legal errors are resolved.

Rejection Under 35 USC 103

Claims 1-3 and 5-6 stand rejected as being unpatentable over Walpin ‘993 in view of Robinson ‘575. This rejection is respectfully traversed.

Claim 1

Applicant and the Examiner both stipulate to the following: (1) Walpin ‘993 fails to disclose a cover ILD that is less than the base ILD, and (2) Robinson ‘575 discloses the cover having a greater ILD than the base.

Applicant has rebutted the rejection as lacking a substantiated prima facie case of obviousness. Particularly, the Examiner has failed to make the requisite prima facie case of obviousness by not providing a bona fide motivation or suggestion to combine and modify the cited references to arrive at the present embodiments as claimed. The proper question

under Section 103 is not whether differences themselves would have been obvious, but rather whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530 (Fed. Cir. 1983). The claimed embodiments as a whole require both that the base have an ILD that is greater than 40 and that the cover have an ILD that is less than the base.

Applicant agrees with the Examiner that Walpin '993 is deficient regarding teaching a cover ILD that is less than the base ILD. The Examiner attempts to cure that deficiency by combining the teaching of Walpin '993 with that of Robinson '575, which discloses the base having an ILD of 24 to 50. However, a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.* 220 USPQ 303 (Fed. Cir. 1983). Robinson '575 also teaches a cover with an ILD that is greater than the base. That is, Robinson '575 considered in its entirety teaches a base ILD as low as 24 and a cover ILD as high as 45.

There is no express motivation from the references themselves to combine them to arrive at the present embodiments because both cited references disclose the cover ILD being greater than the base ILD. In the absence of express motivation, the Examiner's statement that modifications of the prior art to meet the claimed invention would have been within the knowledge of a skilled artisan, because all aspects of the claimed invention are individually taught by different references, is not sufficient to substantiate the motivation or suggestion required by a bona fide prima facie case of obviousness. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993); *In re Kotzab*, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000); *Al-Site Corp. v. VSI Int'l Inc.*, 50 USPQ2d 1161 (Fed. Cir. 1999); MPEP 2143.01.

In the final rejection the Examiner curiously attempts to justify his improper hindsight reconstruction by stating: "It is widely known to employ a variety of different materials

based on an individuals needs...." (Office Action of 12/30/2005, pg. 8) The Examiner provides no citation for this "well known" legal view because none exists; the Examiner's statement is actually a misplaced characterization of the law and is reversible error. Absent reconsideration and withdrawal of the final rejection, this case is not in condition for appeal until this legal error is resolved.

Obviousness under Section 103 is a legal conclusion based on underlying findings of fact. *In re Kotzab*, 217 F.3d 1365, 1369 (Fed. Cir. 2000). If Applicant is incorrect, meaning this case is in fact ready for appeal, then the Pre-Appeal Brief Panel must find in the underlying facts "substantial evidence" that adequately supports the legal conclusion of obviousness. *In re Gartside*, 203 F.3d 1305, 1316 (Fed. Cir. 2000). This approach is consonant with the Office's obligation to develop an evidentiary basis for its factual findings to allow for judicial review under the substantial evidence standard that is both deferential and meaningful. *see In re Lee*, 277 F.3d 1338, 1344 (Fed. Cir. 2002).

For a *prima facie* case of obviousness to exist, there must be an objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art that would lead an individual to combine the relevant teachings of the references. *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). The motivation may come explicitly from statements in the prior art, from knowledge of one of ordinary skill in the art, or even in the nature of the problem to be solved. *Kotzab*, at 1370. The presence or absence of motivation is a question of fact, and the evidence that motivation exists must be clear and particular. *In re Dembiczak*, 175 F.3d 994, 1000 (Fed. Cir. 1999).

Generalized statements of advantages or possibilities by an Examiner, without a bona-fide regard to the desirability or feasibility of modifying the cited references, does not meet the evidentiary requirements for substantiating a *prima facie* case of obviousness.

Given the subtle but powerful attraction of a hindsight-based obviousness analysis, a rigorous application of the requirement of an evidentiary basis for the motivation must be followed. *In re Dembiczak*, at 999. In so doing the Examiner has at his disposal ample guidance:

The rationale supporting an obviousness rejection may be based on common knowledge in the art or "well-known" prior art. The examiner may take official notice of facts outside of the record which are capable of instant and unquestionable demonstration as being "well-known" in the art.

In re Ahlert, 424 F.2d 1088, 1091 (CCPA 1970)

When a rejection is based on facts within the personal knowledge of the examiner, the data should be stated as specifically as possible, and the facts must be supported, when called for by the applicant, by an affidavit from the examiner. Such an affidavit is subject to contradiction or explanation by the affidavits of the application and other persons.

37 CFR 1.104(d)(2)

Assertions of technical facts in areas of esoteric technology must always be supported by citation of some reference work...allegations concerning specific knowledge of the prior art, which might be peculiar to a particular art should also be supported....

In re Ahlert, at 1091

In the present case the Examiner has played loose and free with facts and done a lot of hand-waving in an attempt to substantiate the legal conclusion of obviousness. First, the skilled artisan will readily recognize that neither Walpin '993 nor Robinson '575 teach or suggest *a base comprising a foam material with an impression load deflection (ILD) ratio greater than about 40; and a cover on the base comprising a foam material with an ILD ratio less than the base.*

The Examiner has admitted Walpin '993 is deficient in regard to a base ILD greater than the cover ILD, but relies merely on the carved-out fact that Robinson '575 discloses in

some embodiments a base ILD greater than 40. The Examiner ignores the fact, however, that Robinson '575 as a whole also discloses the cover ILD being greater than the base ILD, which teaches away from the Examiner's combination of the references used to justify this rejection. Essentially, the Examiner chastises the Applicant for "attacking references individually," but then combines only portions of the references' disclosure in order to build the alleged prima facie case in clear violation of the legal requirement to consider the references as a whole.

Applicant now reiterates that the only way the Examiner is able to supply both the *base comprising a foam material with an impression load deflection (ILD) ratio greater than about 40 and the cover on the base comprising a foam material with an ILD ratio less than the base limitations* is via improper hindsight reconstruction. The Examiner has not pointed to any passage of either cited reference that supplies this limitation, or that motivates the skilled artisan to modify the cited references accordingly. The Examiner's generalized statements about operating the cited references according to this limitation would certainly be rebutted by the skilled artisan because the suggested modifications defeat their purposes. The only place the Examiner can find this limitation is by using the Applicant's disclosure against it to extrapolate the misplaced generalizations from the related art. In this case where the entirety of the legal conclusion of obviousness rests on the Examiner's generalizations, the Pre-Appeal Panel must require some concrete evidence in the record to support them rather than relying on what the Examiner views to be "well recognized" or what a skilled artisan would be "well aware of." *In re Zurko*, 258 F.3d 1379, 1385-86 (Fed. Cir. 2001)

Accordingly, this case is not in condition for appeal due to the unresolved factual issue that the Examiner has relied exclusively on extrapolating beyond what the cited references reasonably teach or suggest with generalized statements of what "could be,"

without regard to what the cited references disclose as a whole. This case is also not in condition for appeal due to the Examiner's extrapolation beyond the realm of the law in believing that modifying a material in a structure is "merely obvious" on its face. These extrapolations are not substantiated by evidence in the record whatsoever as to them being obvious to the skilled artisan. Applicant now prays for reconsideration and withdrawal of the rejection of claim 1 and the claims depending therefrom. Otherwise, this case is not in condition for appeal until these factual and legal errors are resolved.

Rejection Under Section 103

Claims 7-10 were rejected as being unpatentable over Walpin '993 in view of Tarquinio '253. This rejection is respectfully traversed.

Claim 7

Applicant and the Examiner both stipulate that Walpin '993 fails to disclose a cover comprising a viscoelastic material. Applicant has rebutted the rejection as lacking a substantiated prima facie case of obviousness. Particularly, the Examiner has failed to make the requisite prima facie case of obviousness by not providing a bona fide motivation or suggestion to combine and modify the cited references to arrive at the present embodiments as claimed. The proper question under Section 103 is not whether differences themselves would have been obvious, but rather whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530 (Fed. Cir. 1983). The claimed embodiments as a whole require both that the base have an ILD that is greater than 40 and that the cover have an ILD that is less than the base.

Applicant agrees with the Examiner that Walpin '993 is deficient regarding teaching a viscoelastic cover. The Examiner attempts to cure that deficiency by combining the teaching of Walpin '993 with that of Tarquinio '253. However, a prior art reference must be

considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.* 220 USPQ 303 (Fed. Cir. 1983). Applicant reiterates that there is no motivation or suggestion where it would render the prior art invention unsatisfactory for its intended purpose. *In re Gordon*, 221 USPQ 1125 (Fed. Cir. 1984)

Applicant again reiterates that the proposed combination of references defeats the intended purpose of Walpin '993. Particularly, Walpin '993 teaches a convoluted surface is necessary for the purpose of providing an alternating contacting engagement of skin pressure and air circulation. The suggested replacing of the nodulated foam in Walpin '993 with the elastomeric material of Tarquinio '253 eliminates the air circulation passages, and thus defeats the purpose of Walpin '993's nodulated surface.

There is no express motivation from the references themselves to combine them to arrive at the present embodiments because the proposed combination defeats the purpose of the cited reference. In the absence of express motivation, the Examiner's statement that modifications of the prior art to meet the claimed invention would have been within the knowledge of a skilled artisan, because all aspects of the claimed invention are individually taught by different references, is not sufficient to substantiate the motivation or suggestion required by a bona fide prima facie case of obviousness. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993); *In re Kotzab*, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000); *Al-Site Corp. v. VSI Int'l Inc.*, 50 USPQ2d 1161 (Fed. Cir. 1999); MPEP 2143.01.

In the final rejection the Examiner curiously attempts to justify his improper hindsight reconstruction by stating: "It is widely known to employ a variety of different materials based on an individuals needs...." (Office Action of 12/30/2005, pg. 8) The Examiner provides no citation for this "well known" legal view because none exists; the Examiner's

statement is actually a misplaced characterization of the law and is reversible error. Absent reconsideration and withdrawal of the final rejection, this case is not in condition for appeal until this legal error is resolved.

Obviousness under Section 103 is a legal conclusion based on underlying findings of fact. *In re Kotzab*, 217 F.3d 1365, 1369 (Fed. Cir. 2000). If Applicant is incorrect, meaning this case is in fact ready for appeal, then the Pre-Appeal Brief Panel must find in the underlying facts "substantial evidence" that adequately supports the legal conclusion of obviousness. *In re Gartside*, 203 F.3d 1305, 1316 (Fed. Cir. 2000). This approach is consonant with the Office's obligation to develop an evidentiary basis for its factual findings to allow for judicial review under the substantial evidence standard that is both deferential and meaningful. *see In re Lee*, 277 F.3d 1338, 1344 (Fed. Cir. 2002).

For a *prima facie* case of obviousness to exist, there must be an objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art that would lead an individual to combine the relevant teachings of the references. *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). The motivation may come explicitly from statements in the prior art, from knowledge of one of ordinary skill in the art, or even in the nature of the problem to be solved. *Kotzab*, at 1370. The presence or absence of motivation is a question of fact, and the evidence that motivation exists must be clear and particular. *In re Dembiczak*, 175 F.3d 994, 1000 (Fed. Cir. 1999).

Generalized statements of advantages or possibilities by an Examiner, without a bona-fide regard to the desirability or feasibility of modifying the cited references, does not meet the evidentiary requirements for substantiating a *prima facie* case of obviousness. Given the subtle but powerful attraction of a hindsight-based obviousness analysis, a rigorous application of the requirement of an evidentiary basis for the motivation must be

followed. *In re Dembiczak*, at 999. In so doing the Examiner has at his disposal ample guidance:

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In re Ahlert, 424 F.2d 1088, 1091 (CCPA 1970)

When a rejection is based on facts within the personal knowledge of the examiner, the data should be stated as specifically as possible, and the facts must be supported, when called for by the applicant, by an affidavit from the examiner. Such an affidavit is subject to contradiction or explanation by the affidavits of the application and other persons.

37 CFR 1.104(d)(2)

Assertions of technical facts in areas of esoteric technology must always be supported by citation of some reference work...allegations concerning specific knowledge of the prior art, which might be peculiar to a particular art should also be supported....

In re Ahlert, at 1091

In the present case the Examiner has played loose and free with facts and done a lot of hand-waving in an attempt to substantiate the legal conclusion of obviousness. First, the skilled artisan will readily recognize that neither Walpin '993 nor Tarquinio '253 teach or suggest *a base comprising a substantially flat longitudinal surface and an inclined surface... and a cover... comprising a viscoelastic foam material.*

The Examiner has admitted Walpin '993 is deficient in regard to a viscoelastic cover, but relies merely on the carved-out fact that Tarquinio '253 discloses a viscoelastic cover. The Examiner ignores the fact, however, that Walpin '993 as a whole also discloses the cover being nodulated for the purpose of defining air passages, which teaches away from the Examiner's combination of the references used to justify this rejection. Essentially, the

Examiner chastises the Applicant for "attacking references individually," but then combines only portions of the references' disclosure in order to build the alleged *prima facie* case in clear violation of the legal requirement to consider the references as a whole.

Applicant now reiterates that the only way the Examiner is able to supply all the limitations of claim 7 is via improper hindsight reconstruction. The Examiner has not pointed to any passage of either cited reference that suggests this combination, or that motivates the skilled artisan to modify the cited references accordingly. The Examiner's generalized statements about operating the cited references according to this limitation would certainly be rebutted by the skilled artisan because the suggested modifications defeat their purposes. The only place the Examiner can find this limitation is by using the Applicant's disclosure against it to extrapolate the misplaced generalizations from the related art. In this case where the entirety of the legal conclusion of obviousness rests on the Examiner's generalizations, the Pre-Appeal Panel must require some concrete evidence in the record to support them rather than relying on what the Examiner views to be "well recognized" or what a skilled artisan would be "well aware of." *In re Zurko*, 258 F.3d 1379, 1385-86 (Fed. Cir. 2001)

Accordingly, this case is not in condition for appeal due to the unresolved factual issue that the Examiner has relied exclusively on extrapolating beyond what the cited references reasonably teach or suggest with generalized statements of what "could be," without regard to what the cited references disclose as a whole. This case is also not in condition for appeal due to the Examiner's extrapolation beyond the realm of the law in believing that modifying a material in a structure is "merely obvious" on its face. These extrapolations are not substantiated by evidence in the record whatsoever as to them being obvious to the skilled artisan. Applicant now prays for reconsideration and withdrawal of the

rejection of claim 1 and the claims depending therefrom. Otherwise, this case is not in condition for appeal until these factual and legal errors are resolved.

Rejection Under Section 103

Claims 11-13 stand rejected as being unpatentable over Walpin '993 in view of Tarquinio '253 and further in view of Robinson '575. This rejection is respectfully traversed because these claims are allowable as depending from an allowable independent claim, for reasons above, and providing additional limitations thereto. Reconsideration and withdrawal of the present rejection are respectfully requested.

Conclusion

This is a complete response to the Office Action mailed December 30, 2005. The Applicant has submitted herewith a request for telephone interview, the time of which is to be determined by the Examiner and his Supervisor, if after considering this Amendment there are any issues preventing allowance of all pending claims, but before issuing the next action on the merits. The Applicant regrets that the Examiner did not grant either of the previously requested interviews, and believes the requested interview could likely have facilitated more expedient progress on the merits in this case.

Respectfully submitted,

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